

Fill in this information to identify your case:

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS

Debtor 1	Joseph	John	Kubala, III
	First Name	Middle Name	Last Name

Debtor 2 (filing spouse)	Erin	Colleen	Kubala
	First Name	Middle Name	Last Name

Case Number: 19-40292

☐ Check if this modification is filed prior to filing of TRCC.

☐ Check if this modification is filed after TRCC filing but still within Benchmark Fee Period.

☒ Check if this modification is filed after Benchmark Fee Period.

List the sections which have been changed by this modification:

2.2, 3.2, 4.3

TXEB Local Form 3015-d

MOTION TO MODIFY
CONFIRMED CHAPTER 13 PLAN

Adopted: Dec 2017

TO THE HONORABLE JUDGE OF THIS COURT:

1. This Motion to Modify Previously-Confirmed Chapter 13 Plan (the "Modification Motion") is filed by the:

☒ Debtor;¹

☐ Chapter 13 Trustee;

☐ Unsecured Claimant: _____

for the purpose of modifying certain specified provisions of that Chapter 13 Plan which had previously been confirmed for the Debtor on 8/19/2019 [dkt #41]. Except as modified herein, all provisions of the confirmed Chapter 13 Plan remain in full force and effect.

If this Motion is filed by the Debtor, each Debtor:

☐ certifies that an amended Schedule I and Schedule J have been filed contemporaneously with this motion;

☒ declares, under penalty of perjury, that the information contained in Schedule I and Schedule J, as previously filed with the Court, remains true and correct.

28-DAY NEGATIVE NOTICE – LBR 3015(h):

Your rights may be affected by the plan modifications sought in this pleading. You should read this pleading carefully and discuss it with your attorney, if you have one in this bankruptcy case. If you oppose the relief sought by this pleading, you must file a written objection, explaining the factual and/or legal basis for opposing the relief.

No hearing will be conducted on this Motion unless a written objection is filed with the Clerk of the United States Bankruptcy Court and served upon the party filing this pleading **WITHIN TWENTY-EIGHT (28) DAYS FROM DATE OF SERVICE** shown in the certificate of service unless the Court shortens or extends the time for filing such objection. If no objection is timely served and filed, this pleading shall be deemed to be unopposed, and the Court may enter an order confirming this plan modification. If an objection is filed and served in a timely manner, the court will thereafter set a hearing with appropriate notice. If you fail to appear at the hearing, your objection may be stricken. The Court reserves the right to set a hearing on any matter.

¹ The use of the singular term "Debtor" in this Modification Motion includes both debtors when the case has been initiated by the filing of a joint petition by spouses.

2. This Modification Motion is required *[select all applicable]*:

- ☐ to reconcile the Plan with allowed claims pursuant to the TRCC;
- ☒ to increase the amount of payments required under the Plan;
- ☐ to reduce the amount of payments required under the Plan;
- ☐ to provide for an allowed claim omitted from treatment under the Plan;
- ☒ to extend the time for making payments required under the Plan;
- ☐ to reduce the time for making payments required under the Plan;
- ☐ to surrender collateral pursuant to § 3.6;
- ☐ to cease further plan disbursements to a particular claimant;
- ☐ to cure a delinquency in the plan payments caused by _____;
- ☐ to increase the amount of retained income tax refunds authorized under § 2.4;
- Reason:** _____;
- ☒ to seek approval of an additional award of attorney's fees to the Debtor's attorney;
- ☒ Other: To add claim for post-confirmation mortgage arrears caused by loss of income due to corona virus.
- ☐ to add a nonstandard provision to Part 8 of the Plan *[check box below]*;

3. **Notice to Creditors:** Regarding insertion of new Nonstandard Provision into Debtor's Plan:

Nonstandard provisions as set forth in Part 8.	<input type="checkbox"/> Included	<input checked="" type="checkbox"/> Not included
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4. The specific modifications to the Debtor's Plan are as follows:

☒ § 2.2 of the Plan regarding regular plan payments² is **MODIFIED** in the following respects:

Beginning on the 30th day after the Petition Date³ unless the Court orders otherwise, the Debtor will make regular payments to the Trustee in variable amounts throughout the applicable commitment period and for such additional time as may be necessary to make the payments to claimants specified in Parts 3 through 5 of this Plan (the "Plan Term"). The payment schedule shall consist of:

☐ **Constant Payments:** The Debtor will pay \$ _____ per month for _____ months.

☒ **Variable Payments:** The Debtor will pay make variable plan payments throughout the Plan Term. The proposed schedule for such variable payments are set forth in **Exhibit A** to this Order and are incorporated herein for all purposes.

If plan payment amounts are increasing, the Debtor certifies that, with regard to § 2.3 of the Plan,

- ☐ a Motion for an Amended Wage Withholding Order for the increased payment amount has been filed;
- ☒ an increase of the amount to be transferred to the Trustee by electronic means has been authorized.

² Any reference to § 2.2 of the Plan herein includes any payments designated and confirmed under ¶ 2 of the 2006 version of TXEB Local Form 3015-a.

³ The use of the term "Petition Date" in this Plan refers to the date that the Debtor filed the voluntary petition in this case.

☐ **None.** No additional Cure Claims designated for treatment under § 3.2 of the Plan.⁴

☐ **No Remaining Claims.** All claims previously listed as a Cure Claim in § 3.2 of the Plan have been reclassified.

☒ **Revised/Additional Cure Claims.** § 3.2 of the Plan regarding the treatment of Cure Claims is **MODIFIED** in the following respects; provided, however, that to the extent that any Cure Claim added hereto is composed of a post-petition mortgage arrearage, the payment of any such arrearage shall be deferred until such time as the Claimant files an amended proof of claim to quantify the amount of the post-petition arrearage and, in any event, unless the Court specifically orders otherwise, such payment shall be subordinated to the existing payment rights of junior classes under the Debtor's previously-confirmed Chapter 13 Plan:

Claimant	Collateral/Property Description	Debtor's DPO Amount	Cure Claim Amount	Plan Interest Rate	Projected Monthly Payment by Trustee	Projected Total Cure Payment by Trustee
Freedom Mortgage <input type="checkbox"/> Revised Claim <input checked="" type="checkbox"/> Additional Claim	3505 Spruce Street	\$ 1,301.66	\$10,990.96	0 %	pro-rata <input type="checkbox"/> Trustee should suspend current plan payment	\$10,990.96
Insert additional claims as needed.						

☒ **None.** No additional 910 Claims designated for treatment under § 3.3 of the Plan.⁵

☐ **No Remaining Claims.** All claims previously listed as a 910 Claim in § 3.3 of the Plan have been reclassified.

☐ **Revised/Additional 910 Claims.** § 3.3 of the Plan regarding the treatment of 910 Claims is **MODIFIED** in the following respects:

Claimant	Collateral Description	910 Claim Amount	Plan Interest Rate	Equal Monthly Payment by Trustee	Projected Total Payment by Trustee
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☒ **None.** No additional 506 Claims designated for treatment under § 3.4 of the Plan.⁶

☐ **No Remaining Claims.** All claims previously listed as a 506 Claim in § 3.4 of the Plan have been reclassified.

☐ **Revised/Additional 506 Claims.** § 3.4 of the Plan regarding the treatment of 506 Claims is **MODIFIED** in the following respects:

Claimant	Collateral Description	506 Claim Amount	Collateral Value	Plan Interest Rate	Equal Monthly Payment by Trustee	Projected Total Payment by Trustee
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☒ **None.** No additional Direct Claims designated for treatment under § 3.5 of the Plan.⁷

☐ **§ 3.5 of the Plan regarding the treatment of Direct Claims is MODIFIED** in the following respects:

Claimant	Collateral Description	Total Claim Amount on Petition Date	Collateral Value on Petition Date	Contract Interest Rate	Monthly Payment per Contract	Party to Make Payment	Date of Final Monthly Payment
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⁴ Any reference to § 3.2 of the Plan herein includes any payments designated and confirmed under ¶ 6(B) or ¶ 8 of the 2006 version of TXEB Local Form 3015-a.

⁵ Any reference to § 3.3 of the Plan herein includes any payments designated and confirmed under ¶ 6(A)(ii)(a) of the 2006 version of TXEB Local Form 3015-a.

⁶ Any reference to § 3.4 of the Plan herein includes any payments designated and confirmed under ¶ 6(A)(ii)(b) of the 2006 version of TXEB Local Form 3015-a.

⁷ Any reference to § 3.5 of the Plan herein includes any payments designated and confirmed under ¶ 12(B) of the 2006 version of TXEB Local Form 3015-a.

☒ **None.** No additional designations for surrender of collateral under § 3.6 of the Plan.⁸

☐ **Additional Surrender of Collateral.** § 3.6 of the Plan regarding the designation of property to be surrendered is **MODIFIED**. The Debtor surrenders to each additional claimant listed below the property that secures that creditor's claim and requests that, upon the granting of this Modification Motion, the automatic stay under § 362(a) be terminated as to the referenced collateral only and any co-debtor stay under § 1301 be terminated in all respects. Pending the consideration of this Modification Motion, the Trustee shall immediately cease any plan distribution to the additional claimant on account of the allowed secured claim for which the surrendered collateral stands as security. The affected claimant shall have **ninety (90) days after the entry of the order granting this Modification Motion** to file an amended proof of claim regarding recovery of any deficiency balance from the Estate resulting from the disposition of the collateral. Any such allowed general unsecured claim will thereafter be treated under § 5.2 of the confirmed plan.

Claimant	Collateral Description	Collateral Location
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☒ **None.** No additional DSO Claims designated for treatment under § 4.4 of the Plan.⁹

☐ **No Remaining Claims.** All claims previously listed as a DSO Claim in § 4.4 of the Plan have been reclassified.

☐ **Revised/Additional DSO Claims.** § 4.4 of the Plan regarding the treatment of DSO Claims is **MODIFIED** in the following respects:

DSO Claimant	Projected DSO Claim Amount	Projected Monthly Payment by Trustee
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☒ **None.** No additional Tax/Other Priority Claims designated for treatment under § 4.6 of the Plan.¹⁰

☐ **No Remaining Claims.** All claims previously listed as a Tax/Other Priority Claim in § 4.6 of the Plan have been reclassified.

☐ **Revised/Additional Tax/Priority Claims.** § 4.6 of the Plan regarding the treatment of Tax/Other Priority Claims is **MODIFIED** in the following respects:

Priority Claimant	Projected Claim Amount	Projected Monthly Payment by Trustee
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☐ **Part 8** of the Plan is **MODIFIED** with the inclusion of the following Special Provision:

Under Bankruptcy Rule 3015(c), nonstandard provisions **must** be set forth below. A nonstandard provision is a provision not otherwise included in the Official TXEB Form or any deviation from it. *Any nonstandard provision set out elsewhere in this Modification Motion is void. Even if set forth below, any nonstandard provision is void unless the "Included" box is checked in ¶ 3 of this Modification Motion.*

⁸ Any reference to § 3.6 of the Plan herein includes any designations for surrender of collateral under ¶ 6(C) of the 2006 version of TXEB Local Form 3015-a.

⁹ Any reference to § 4.4 of the Plan herein includes any payments designated and confirmed under ¶ 5(A) of the 2006 version of TXEB Local Form 3015-a.

¹⁰ Any reference to § 4.6 of the Plan herein includes any payments designated and confirmed under ¶ 5(B) of the 2006 version of TXEB Local Form 3015-a.

5. **Request for Additional Attorney's Fees (Expiration of Benchmark Fee Period Only):**

In light of the fact that the Benchmark Fee Period under LBR 2016(h) expired prior to the filing of this motion, the Debtor's attorney, Gregory W. Mitchell requests an additional award of \$ 650.00 to be paid pursuant to § 4.3 of the confirmed Plan for legal services rendered and for reimbursement of expenses incurred with regard to the preparation and filing of this Modification Motion and other documents pertaining thereto. This award would be in addition to any other fees previously awarded or paid in this case and shall be paid in a manner consistent with § 9.2 of the confirmed Plan.

WHEREFORE, the Movant, as identified in ¶ 1 herein, respectfully prays that the foregoing Modification Motion be granted, that the Debtor's Plan be modified in the manner set forth herein, that, if applicable, any request for additional attorney's fees as set forth in ¶5 be granted, and that such other and further relief be granted in this regard as may be appropriate under the circumstances.

THE MITCHELL LAW FIRM, L.P.

/s/ Gregory W. Mitchell
Gregory W. Mitchell
State Bar ID#: 00791285
George D. Wigington
State Bar ID#: 24091665
1412 Main Street, Suite 500
Dallas, Texas 75202
(972)463-8417 – Office
(972)432-7540 – Facsimile
E-mail: greg@mitchellps.com
Attorney for Debtors

I hereby certify that on July 1, 2020, the foregoing and EXHIBIT A were served on the creditors or parties in interest listed below on the attached master mailing matrix.

/s/ Gregory W. Mitchell
Gregory W. Mitchell

Debtor: Joseph John Kubala, III
Erin Colleen Kubala

Case Number: 19-40292

EXHIBIT "A" - VARIABLE PLAN PAYMENTS

Payment Start Date: March 5, 2019

<u>Month</u>	<u>Payment</u>	<u>Month</u>	<u>Payment</u>	<u>Month</u>	<u>Payment</u>
1	\$ 400.00	25	\$ 495.00	49	\$ 645.00
2	\$ 184.62	26	\$ 495.00	50	\$ 645.00
3	\$ 276.93	27	\$ 495.00	51	\$ 645.00
4	\$ 276.93	28	\$ 495.00	52	\$ 645.00
5	\$ 495.00	29	\$ 570.00	53	\$ 720.00
6	\$ 495.00	30	\$ 570.00	54	\$ 720.00
7	\$ 495.00	31	\$ 570.00	55	\$ 720.00
8	\$ 495.00	32	\$ 570.00	56	\$ 720.00
9	\$ 495.00	33	\$ 570.00	57	\$ 720.00
10	\$ 495.00	34	\$ 570.00	58	\$ 720.00
11	\$ 495.00	35	\$ 570.00	59	\$ 720.00
12	\$ 495.00	36	\$ 570.00	60	\$ 720.00
13	\$ 495.00	37	\$ 570.00	61	\$ 720.00
14	\$ 495.00	38	\$ 570.00	62	\$ 720.00
15	\$ 495.00	39	\$ 570.00	63	\$ 720.00
16	\$ 495.00	40	\$ 570.00	64	\$ 720.00
17	\$ 495.00	41	\$ 645.00	65	\$ 795.00
18	\$ 495.00	42	\$ 645.00	66	\$ 795.00
19	\$ 495.00	43	\$ 645.00	67	\$ 795.00
20	\$ 495.00	44	\$ 645.00	68	\$ 795.00
21	\$ 495.00	45	\$ 645.00	69	\$ 795.00
22	\$ 495.00	46	\$ 645.00	70	\$ 795.00
23	\$ 495.00	47	\$ 645.00	71	\$ 795.00
24	\$ 495.00	48	\$ 645.00	72	\$ 795.00
				Total	\$ 42,598.48

Label Matrix for local noticing
0540-4
Case 19-40292
Eastern District of Texas
Sherman
Wed Jul 1 19:23:57 CDT 2020

ARS National Services, Inc.
P.O. Box 469046
Escondido, CA 92046-9046

American Coradius International, LLC
2420 Sweet Home Rd., Suite 150
Amherst, NY 14228-2244

Baylor Scott & White
P.O. Box 842727
Dallas, TX 75284-2727

Burns, Cooper & Associates
P.O. Box 1459
Sulphur Springs, TX 75483-1459

Capital One Bank, N.A.
P.O. Box 30285
Salt Lake City, UT 84130-0285

(p)JPMORGAN CHASE BANK N A
BANKRUPTCY MAIL INTAKE TEAM
700 KANSAS LANE FLOOR 01
MONROE LA 71203-4774

Credit One Bank
P.O. Box 60500
City of Industry, CA 91716-0500

Discover Financial Services
P.O. Box 733509
Dallas, TX 75373-3509

Diversified Healthcare Services, Inc.
P.O. Box 830808
Richardson, TX 75083-0808

24 Hour Physicians, Inc.
P.O. Box 4346, Dept. 452
Houston, TX 77210-4346

AT&T Mobility
P.O. Box 537104
Atlanta, GA 30353-7104

American Medical Collection Agency
P.O. Box 1235
Elmsford, NY 10523-0935

Baylor University Medical Center
3500 Gaston Avenue
Dallas, TX 75246-2088

CBHV
P.O. Box 831
Newburgh, NY 12551-0831

CareNow
P.O. Box 743571
Atlanta, GA 30374-3571

Comenity Bank
4590 E. Broad Street
Columbus, OH 43213-1301

Credit Systems International
1277 Country Club Lane
Fort Worth, TX 76112-2304

Discover Student Loans
PO Box 30925
Salt Lake City, UT 84130-0925

Carey D. Ebert
P. O. Box 941166
Plano, TX 75094-1166

AFNI
P.O. Box 94063
Palatine, IL 60094-4063

Amcol Systems, Inc.
111 Lancewood Rd.
Columbia, SC 29210-7523

Ashley Funding Services, LLC
Resurgent Capital Services
PO Box 10587
Greenville, SC 29603-0587

Bonial & Associates, P.C.
14841 Dallas Parkway, Suite 425
Dallas, TX 75254-8067

Capital One Bank (USA), N.A.
4515 N Santa Fe Ave
Oklahoma City, OK 73118-7901

Chase Bank USA, N.A.
c/o Robertson, Anschutz & Schneid, P.L.
6409 Congress Avenue, Suite 100
Boca Raton, Florida 33487-2853

Credit Collection Service
P.O. Box 55126
Boston, MA 02205-5126

(p)CREDIT UNION OF TEXAS
P O BOX 515718
DALLAS TX 75251-5718

Dish Network
1910 Joe Stephens Ave.
Weslaco, TX 78599-3702

Fed Loan Servicing
ATTN: Bankruptcy
P.O. Box 69184
Harrisburg, PA 17106-9184

Financial Corporation of America
P.O. Box 732651
Dallas, TX 75373-2651

First Choice Emergency Room
220 E. Las Colinas, Ste. 1000
Irving, TX 75039-1226

Freedom Mortgage
301 Harper Dr.
Mt. Laurel, NJ 08054

Freedom Mortgage Corporation
14841 Dallas Parkway, Suite 425
Dallas, TX 75254-8067

Freedom Mortgage Corporation
10500 Kincaid Drive
Fishers, Indiana 46037-9764

GEICO
2280 N Greenville Ave.
Richardson, TX 75082-4412

Hunt County
Linebarger Goggan Blair & Sampson LLP
c/o Melissa L. Palo
2777 N. Stemmons Freeway
Suite 1000
Dallas, Tx 75207-2328

Hunt County
Linebarger Goggan Blair & Sampson, LLP
c/o Melissa L. Palo
2777 N. Stemmons Frwy
Suite 1000
Dallas, TX 75207-2328

Hunt Regional Medical Center
4215 Joe Ramsey Blvd. E
Greenville, TX 75401-7852

IC System
P.O. Box 64738
St. Paul, MN 55164-0378

Internal Revenue Service
Special Procedures - Insolvency
P.O. Box 7346
Philadelphia, PA 19101-7346

Erin Colleen Kubala
3505 Spruce Street
Royse City, TX 75189-6228

Joseph John Kubala III
3505 Spruce Street
Royse City, TX 75189-6228

LVNV Funding, LLC
Resurgent Capital Services
PO Box 10587
Greenville, SC 29603-0587

Laboratory Corporation of America
1801 1st Ave. S #101
Birmingham, AL 35233-1910

MIDLAND FUNDING LLC
PO Box 2011
Warren, MI 48090-2011

Medicredit
P.O. Box 1629
Maryland Heights, MO 63043-0629

Midland Credit Management (MCM)
P.O. Box 60578
Los Angeles, CA 90060-0578

Gregory W. Mitchell
The Mitchell Law Firm, L.P.
1412 Main Street
Suite 500
Dallas, TX 75202-4042

Optum Bank
2525 Lake Park Blvd, #101
Salt Lake City, UT 84120-8230

(p)PMAB LLC
4135 SOUTH STREAM BLVD SUITE 400
CHARLOTTE NC 28217-4636

Melissa L. Palo
Linebarger Goggan Blair & Sampson LLP
2777 N. Stemmons Freeway, Suite 1000
Dallas, TX 75207-2328

Penn Credit Corporation
P.O. Box 69703
Harrisburg, PA 17106-9703

Chandra Dianne Pryor
Bonial & Associates PC
14841 Dallas Pkwy., Ste.425
Dallas, TX 75254-8067

QVC
1200 Wilson Dr.
West Chester, PA 19380-4262

Red River Valley Radiology
P.O. Box 100
Paris, TX 75461-0100

Riddle & Williams
3811 Turtle Creek Blvd., Suite 500
Dallas, TX 75219-4497

Rockwall CAD
Linebarger Goggan Blair & Sampson, LLP
c/o Melissa L. Palo
2777 N. Stemmons Frwy
Suite 1000
Dallas, TX 75207-2328

Rockwall Urgent Care
810 E Ralph Hall Pkwy
Rockwall, TX 75032-6879

John Schlotter
Mccalla Raymer Leibert Pierce, LLC
1544 Old Alabama Road
Roswell, GA 30076-2102

(p)SUDDENLINK COMMUNICATIONS
6013 63RD STREET
LUBBOCK TX 79424-2718

Synchrony Bank
ATTN: Bankruptcy Dept.
P.O. Box 965061
Orlando, FL 32896-5061

Texas Health Physicians Group
9229 LBJ Freeway
Dallas, TX 75243-4403

Texas Medicine Resources
1105 N Central Expy
Allen, TX 75013-6103

Texas Secretary of State
101 E. 15th St.
Austin, TX 78778-1442

The Mitchell Law Firm, L.P.
12720 Hillcrest Road, Suite 625
Dallas, Texas 75230-2163

U.S. Attorney General
Department of Justice
Main Justice Building
10th & Constitution Ave., NW
Washington, DC 20530-0001

US Trustee
Office of the U.S. Trustee
110 N. College Ave.
Suite 300
Tyler, TX 75702-7231

USAA Federal Savings Bank
10750 McDermott Freeway
San Antonio, TX 78288-9876

United Revenue Corp
204 Billings St., Suite 210
Arlington, TX 76010-2495

(p)WALNUT HILL MEDICAL CENTER
7515 GREENVILLE AVENUE
STE 710
DALLAS TX 75231-3848

Wells Fargo Bank, N.A.
PO Box 10438, MAC F8235-02F
Des Moines, IA 50306-0438

Wells Fargo Financial
3455 Beltline Rd., N. Suite 215
Irving, TX 75062-7861

Lance E. Williams
Riddle & Williams, P.C.
3811 Turtle Creek Blvd
Suite 500
Dallas, TX 75219-4497

Woodland Creek HOA
3811 Turtle Creek Blvd., Suite 500
Dallas, TX 75219-4497

Woodland Creek of Royse City
c/o Riddle and Williams
3811 Turtle Creek Blvd
Suite 500
Dallas, TX 75219-4497

Stephen Wu
Mackie, Wolf, Zientz and Mann
14160 North Dallas Parkway, Suite 900
Dallas, TX 75254-4314

Michael Zientz
Mackie Wolf & Zientz, P.C.
14160 N. Dallas Parkway, Suite 900
Dallas, TX 75254-4314

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Chase Card Services
P.O. Box 15298
Wilmington, DE 19850-5298

Credit Union of Texas
P.O. Box 517028
Dallas, TX 75251

(d)Credit Union of Texas
PO Box 515718
Dallas TX 75251

PMAB, LLC
4135 S Stream Blvd, #400
Charlotte, NC 28217

Suddenlink Communications
520 Maryville Centre Dr.
St. Louis, MO 63141

Walnut Hill Medical Center
7502 Greenville Ave.
Dallas, TX 75231

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(d)Carey D. Ebert
P. O. Box 941166
Plano, TX 75094-1166

(d)Rockwall CAD
Linebarger Goggan Blair & Sampson, LLP
c/o Melissa L. Palo
2777 N. Stemmons Frwy
Suite 1000
Dallas, TX 75207-2328

End of Label Matrix	
Mailable recipients	77
Bypassed recipients	2
Total	79